

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE**

**MICHAEL RICHARDS AND JILL RICHARDS, INDIVIDUALLY AND AS
NATURAL PARENTS, NEXT OF KIN, ADMINISTRATOR AD LITEM
AND PERSONAL REPRESENTATIVE
FOR MICHAEL CONNOR RICHARDS, DECEASED,**

Plaintiffs,

VS.

CIVIL ACTION NO.:

JURY DEMANDED

**DIAMOND ENTERTAINMENT GROUP INC.,
D/B/A PURPLE DIAMOND GENTLEMEN'S CLUB
A/KA THE PURPLE DIAMOND**

Defendant.

COMPLAINT

Come now the Plaintiffs, Michael Richards and Jill Richards, Individually and as Natural Parents, Next of Kin, Administrator Ad Litem and Personal Representative for Michael Connor Richards, Deceased and for good cause alleges the following cause of action in tort for personal injuries and Wrongful Death of Michael Connor Richards against the Defendant arising from an automobile collision in Shelby County, Tennessee on January 7, 2018 after Defendant sold alcoholic beverage and/or beer to Donald Giamanco after Giamanco was visibly intoxicated resulting in and proximately causing the Wrongful Death of Michael Connor Richards and would respectfully state and allege as follows:

Plaintiff files this action pursuant to all applicable laws, including but not limited to the Tennessee Wrongful Death statute codified at T.C.A. Code Annotated Section 20-5-101 et seq. Tennessee Code Annotated Section 57-10-102.

JURISDICTION AND VENUE

1. This Honorable Court has jurisdiction over this matter pursuant to 28 U.S.C. Section 1332 as the parties are citizens of different states and the amount in controversy exceeds \$75,000.00 (Seventy-Five Thousand Dollars)

2. Venue is proper for this cause because this cause of action arose within Shelby County, Tennessee.

PARTIES

3. Plaintiffs Michael Richards and Jill Richards (hereinafter referred to as “Plaintiffs”) are married and are adult resident citizens of Virginia and/or the Commonwealth of Virginia and are the Natural Parents of Michael Connor Richards, Deceased and were so at all relevant times to this Complaint. Plaintiffs file this Wrongful Death lawsuit Individually and as the Natural Parents, Next of Kin, Administrator Ad Litem and Personal Representative for Michael Connor Richards and on behalf of all Wrongful Death beneficiaries of Michael Connor Richards, Deceased. Plaintiffs are the proper party to file this Wrongful Death lawsuit pursuant to T.C.A. Section 20-5-101 et seq. including but not limited to Sections 20-5-106 and 2-5-107 and any other applicable law. Plaintiffs file this action for the Wrongful Death of their only son, Michael Connor Richards which was caused by and/or proximately caused by the negligence and/or

reckless conduct of an extremely intoxicated Donald Giamanco arising out of an automobile collision on January 7, 2018 in Shelby County, Tennessee. Plaintiffs allege that Defendant sold alcoholic beverages and/or beer to Donald Giamanco on January 6, 2018 and continuing into the early hours of January 7, 2018 after Donald Giamanco was visibly intoxicated and that Wrongful Death of Michael Connor Richards was the direct result of Giamanco's consumption of the alcoholic beverage or beer so sold in violation of T.C.A. Section 57-10-102.

4. Michael Connor Richards, Deceased (hereinafter referred to as "Connor Richards") was an adult resident citizen of Virginia and/or the Commonwealth of Virginia on January 7, 2018 and at all times relevant to this Complaint, up to and including the date of his premature Wrongful Death on January 7, 2018.

5. Defendant Diamond Entertainment Group Inc. is a Tennessee for profit corporation which operates a strip club in Memphis, Tennessee with a principal address of 6102 Macon Road, Memphis, TN 38134-7502. Defendant's Agent for Service of Process is Milton Uta, 8088 Abington Woods Ave., Arlington, TN 38002-8932.

FACTS

6. On January 7, 2018 at approximately 2:35 a.m., "Connor Richards" was 25 years old and riding as a passenger in a 2008 Tahoe which was being driven by his first cousin, Cole Miller. The occupants of the 2008 Tahoe immediately prior to and at the time of the accident were Cole Miller, Kaitlin Martin, Kara Richards, Cade Miller, Loden Knotts and Sarah Holloway, Matt Galloway and Connor Richards.

7. Connor Richards is the only brother to his two sisters, Kaitlin Martin and Kara Richards.

8. Connor Richards is the first cousin of Cole Miller and Cade Miller.

9. Connor Richards and all other occupants of the 2008 Tahoe at the time of the accident had previously attended the funeral of Connor's grandmother, Mae Sue Richards on January 6, 2018 in Shelby County, Tennessee.

10. On January 7, 2018, at the time of the automobile collision with Donald Giamanco and all relevant times to the Complaint, Cole Miller was driving the 2008 Tahoe in a lawful, cautious, prudent and safe manner eastbound on Macon Road with Connor Richards, Kaitlin Martin, Kara Richards, Cade Miller, Sarah Holloway, Loden Knotts and Matt Galloway riding as passengers and/or occupants in the 2008 Tahoe.

11. At the time of the automobile collision with Donald Giamanco's automobile and at all relevant times to the Complaint, Cole Miller was driving and operating the 2008 Tahoe eastbound on Macon Road in a safe and a lawful manner and exercising due care under the circumstances and operating and driving said 2008 Tahoe in compliance with all laws of the State of Tennessee and Tennessee common law.

12. Cole Miller was driving the 2008 Tahoe eastbound on Macon Road in Shelby County, Tennessee at approximately 2:35 a.m. on January 7, 2018 with Connor Richards and the other six occupants riding as passengers when the severely intoxicated Donald Giamanco suddenly and without warning, violently and unexpectedly crashed the 2016 Silverado truck that he was driving eastbound on Macon Road into the rear of the 2008 Tahoe at a speed in excess of 115 miles per hour, directly, legally and proximately causing Connor Richards injuries, damages and premature Wrongful Death and all Wrongful Death Damages of Plaintiffs.

13. The violent impact of Donald Giamanco's 2016 Silverado colliding with the back of the 2018 Tahoe at a speed greater than 115 miles per hour caused the 2008 Tahoe to spin 180

degrees, leave the roadway and then flip over upside down, directly, legally and proximately causing the injuries, damages and premature Wrongful Death of Connor Richards and Plaintiffs' damages on January 7, 2018 in Shelby County, Tennessee.

14. As a result of the aforementioned automobile collision involving the severely intoxicated Donald Giamanco crashing his truck into the rear of the 2008 Tahoe, Donald Giamanco was charged with multiple Tennessee criminal offenses by the Shelby County Sheriff's Department including but not limited to Vehicular Homicide, Driving Under the Influence of an Intoxicant, Reckless Driving and multiple counts of Aggravated Assault. Donald Giamanco has now been indicted by the Shelby County Grand Jury on said criminal charges and his criminal charges are pending in Shelby County Criminal Court.

15. Plaintiffs allege that Donald Giamanco was sober when he entered the Defendant's strip club and/or business on the evening of January 6, 2018. Donald Giamanco's Blood Alcohol Content (BAC) was greater than .20 when the Shelby County Sheriff's Department took the sample from Giamanco after the automobile collision in violation of the Tennessee Criminal Code and/or Statute. Donald Giamanco was under the influence of an intoxicant in violation of Tennessee law at the time of the collision. Donald Giamanco had been a customer buying and consuming alcoholic beverages and/or beer from Defendant's business for several hours on the evening of January 6 up to approximately 2:30 a.m. on January 7, 2018 at which time Donald Giamanco drove his truck off the lot of the Defendant's business and immediately accelerated the truck to a speed in excess of 115 miles per hour at the time of the accident less than five minutes later at approximately 2:35 a.m.

16. Plaintiffs allege that the negligence and reckless conduct of the severely intoxicated Donald Giamanco caused the violent impact between the 2008 Tahoe and Defendant's 2016

Silverado truck and proximately caused the injuries, damages and premature Wrongful Death of Plaintiffs' only son, when as a direct, legal and proximate cause and/or result of the violent impact, Connor Richards was partially ejected from the 2008 Tahoe and died on January 7, 2018 as the result of his injuries including but not limited to blunt trauma to his head and body.

17. Plaintiffs allege that Connor Richard's injuries, damages and premature Wrongful Death and Plaintiffs' damages were the direct and proximate result of the negligence and reckless conduct of Donald Giamanco and Defendant on January 7, 2008.

ACTS OF NEGLIGENCE

18. Plaintiffs charge, allege and aver that Donald Giamanco was guilty of the following acts of common law negligence under Tennessee law which were the direct and proximate cause of Connor Richards injuries, damages and premature death and Plaintiffs' injuries and damages in this cause, to wit:

- a. In negligently failing to use that degree of care and caution in the operation of the vehicle as was required of a reasonable and prudent person under the same or similar circumstances existing at the time and place of the aforementioned collision;
- b. In negligently failing to maintain a proper and safe lookout for other vehicles;
- c. In negligently failing to keep his vehicle under proper control;
- d. In negligently failing to devote full time and attention to the operation of the vehicle;
- e. In negligently failing to maintain proper control of the vehicle under the existing circumstances;
- f. In negligently failing to adequately and reasonably monitor the flow of traffic;
- g. In negligently failing to use reasonable care to avoid injury while operating a motor vehicle;
- h. In negligently failing to warn Connor Richards and/or Cole Miller;

- i. In negligently failing to yield to the 2008 Tahoe in which Connor Richards was a passenger;
- j. In negligently failing to maintain safe control and/or speed of his truck;
- k. Operating a motor vehicle while under the influence of an intoxicating substance in violation of Tennessee law.

19. Plaintiffs further allege and charge that Giamanco was guilty of violating multiple statutes contained within the Tennessee Code Annotated including but not limited to the following sections, each and every one were in full force and effect at the time and place of said automobile collision, constituting negligence per se, which were a direct and proximate cause of Connor Richards injuries, damages and premature Wrongful Death and Plaintiffs' Damages and should be imputed to Donald Giamanco and Defendant, to wit:

- (A) **Section 55-8-103 Required obedience to traffic laws –**
It is unlawful and, unless otherwise declared in this chapter and Chapter 10, parts 1-5 of this title with respect to particular offenses, it is a Class C misdemeanor, for any person to do any act forbidden or fail to perform any act required in this chapter and chapter 10 of this title.
- (B) **Section 55-8-136 Drivers to exercise due care –**
 - (b) Notwithstanding any speed limit or zone in effect at the time, or right of way rules that may be applicable, every driver of a motor vehicle shall exercise due care to avoid colliding with any other motor vehicle, either being driven or legally parked upon any roadway, or any road sign, guard rail or any fixed object legally placed within or beside the roadway right of way, by operating such motor vehicle at a safe speed, by maintaining a safe lookout, by keeping such motor vehicle under proper control and by devoting full time and attention to operating such motor vehicle, under the existing circumstances to avoid endangering life, limb or property.

(C) **Section 55-10-205 Reckless Driving –**

(a) Any person who drives any vehicle in willful or wanton disregard for the safety of persons or property commits reckless driving.

(D) **Section 55-10-401 Driving Under the Influence of Intoxicant –**

It is unlawful for any person to drive or to be in physical control of any automobile or other motor driven vehicle on any of the public roads and highways of the state, or on any streets or alleys, or while on the premises of any shopping center, trailer park or any apartment house complex, or any other premises that is generally frequented by the public at large, while:

(1) Under the influence of any intoxicant, marijuana, controlled substance, controlled substance analogue, drug, substance affecting the central nervous system or combination thereof that impairs the driver's ability to safely operate a motor vehicle by depriving the driver of the clearness of mind and control of oneself which the driver would otherwise possess; or

(2) The alcohol concentration in the person's blood or breath is eight-hundredths of one percent (0.08%) or more.

(E) **Section 39-13-102 Aggravated Assault -**

(a)(1) A person commits aggravated assault who:

(A) Intentionally or knowingly commits an assault as defined in Section 39-13-101, and the assault:

(i) Results in serious bodily injury to another;

(ii) Results in the death of another;

(iii) Involved the use or display of a deadly weapon; or

(iv) Involved strangulation or attempted strangulation; or

(B) Recklessly commits an assault as defined in Section 39-13-101(a)(1), and the assault:

(i) Results in serious bodily injury to another;

(ii) Results in the death of another; or

(iii) Involved the use or display of a deadly weapon.

(F) **Section 39-13-213 Vehicular Homicide -**

(a) Vehicular homicide is the reckless killing of another by the

operation of an automobile, airplane, motorboat or other motor vehicle, as the proximate result of:

(1) Conduct creating a substantial risk of death or serious bodily injury to a person;

(2) The driver's intoxication, as set forth in Section 55-10-401. For the purposes of this section, "intoxication" includes alcohol intoxication as defined by Section 55-10-411(a), drug intoxication, or both;

(3) As the proximate result of conduct constituting the offense of drag racing as prohibited by title 55, chapter 10, part 5; or

(4) The driver's conduct in a posted construction zone where the person killed was an employee of the department of transportation or a highway construction worker.

(b)(1) Vehicular homicide under subdivision (a)(1) or (a)(3) is a Class C felony.

(2)(A) Vehicular homicide under subdivision (a)(2) is a Class B felony.

20. The above referenced Tennessee statutes were in full force and effect on January 7, 2018 and Plaintiffs allege that Donald Giamanco violated each statute and each violation constitutes negligence per se and should be imputed to Donald Giamanco and Defendant.

ACTS OF RECKLESS CONDUCT

21. Plaintiffs hereby adopt in verbatim as if stated herein each and every paragraph as if stated herein but Plaintiffs specifically substitute the word "reckless" for "negligent" and "recklessness" for "negligence" for the purpose of pleading paragraph number 22.

22. The violent automobile collision of January 7, 2008 and the resulting injuries, damages and premature Wrongful Death of Connor Richards and Plaintiffs' damages were directly, legally and proximately caused by and the result of the negligence and/or reckless conduct of Donald Giamanco and Defendant.

DAMAGES

23. Plaintiffs allege that as a direct and proximate cause and result of Defendant's Negligence and/or Reckless conduct in selling alcoholic beverage or beer to the visibly intoxicated Donald Giamanco that Donald Giamanco caused and/or proximately caused the Wrongful Death of Michael Connor Richards as the direct result of the consumption of the alcoholic beverage or beer sold. Plaintiffs allege in the alternative that Defendant's sale of alcoholic beverage and/or beer by Defendant and/or Defendant's employee, agent and/or servant to Donald Giamanco was the proximate cause and/or one of the proximate causes of the Wrongful Death of Michael Connor Richards on January 7, 2018 in violation of T.C.A. Section 57-10-102.

24. Plaintiffs allege that Donald Giamanco's and Defendant's negligence and/or reckless conduct proximately caused the Wrongful Death of Michael Connor Richards and Plaintiffs have suffered damages, including but not limited to:

- a. All Wrongful Death damages available under Tennessee law;
- b. All necessary expenses including but not limited to burial expenses;
- c. Mental and Physical Pain and Suffering;
- d. All economic damages/Present Cash Value regarding Connor Richards expected monetary earnings over his work life and/or career;
- e. Loss of Consortium/Reasonable Value of Filial Consortium;
- f. Loss of Time;
- g. Loss of Enjoyment of Life.

25. Connor Richards suffered extreme pain and suffering and lost his life and it was directly

and proximately caused by the negligent and reckless conduct of Donald Giamanco and Defendant.

26. As a direct and proximate cause and/or result of Donald Giamanco and Defendant's Negligent and Reckless Conduct in causing the automobile collision and resulting bodily injury and blunt trauma to the body and head of Connor Richards on January 7, 2018, Connor Richards endured severe pain and suffering and died prematurely on January 7, 2018 and Plaintiffs were injured and damaged for life.

27. Plaintiffs seek all Wrongful Death Damages and all compensatory damages from Defendant which are available under Tennessee law including but not limited to extreme pain and suffering of Connor Richards, funeral expenses, pecuniary value of the life of Connor Richards and the loss of society, companionship and consortium for Plaintiffs.

28. Plaintiffs allege that Defendant is guilty of reckless conduct in directly, legally and proximately causing the injuries and Wrongful Death of Connor Richards and Plaintiffs seek all damages against the Defendant for reckless conduct for selling alcoholic beverages and/or beer to the visibly and severely intoxicated Donald Giamanco which was one of the proximate causes of the automobile collision and proximately caused the premature Wrongful Death of Connor Richards and Plaintiffs' damages in this cause.

PRAYER FOR RELIEF

1. That a copy of this Complaint be served upon the named Defendant and that he be required to answer this Complaint.

2. That Plaintiffs be awarded compensatory damages against Defendant in the amount of \$ 5,000,000.00 (Five Million Dollars)

3. That Plaintiffs have such other relief, both general and specific to which they may be entitled to and the costs of this cause.

JURY TRIAL DEMANDED

Respectfully submitted,

/s/ Daniel A. Seward
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